

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION

UNITED STATES OF AMERICA,)
)
 Plaintiff,)
)
v.) Case No. 4:05CR595 HEA
)
EMILIO SAENZ,)
)
 Defendant.)

MEMORANDUM AND ORDER

This matter is before the Court on defendant's Motion to Exclude Statements, [Doc. No. 88], and Motion for Relief from Prejudicial Joinder, [Doc. No.89]. The Court referred the matter to United States Magistrate Judge Mary Ann L Medler for a Report and Recommendation pursuant to 28 U.S.C. § 636(b). Judge Medler filed her Report and Recommendation in which she recommends that the Motion for Relief from Prejudicial Joinder be granted and that the Motion to Exclude be denied, as moot.

The government concedes that co-defendant Melissa Saenz' statement creates a *Bruton* problem, and agrees that a separate trial for Melissa Saenz is appropriate.

No objections to the Report and Recommendation have been filed. The Court adopts the Report and Recommendation.

Accordingly,

IT IS HEREBY ORDERED that defendant's Motion to Exclude Statements of Co-Defendant at Trial, [Doc. No. 88], is denied, as moot.

IT IS FURTHER ORDERED that defendant's Motion for Relief from Prejudicial Joinder, [Doc. No. 89], is granted.

IT IS FURTHER ORDERED that the trial date of March 22, 2006 remains for defendant Emilio Saenz. The trial of Melissa Saenz shall commence on May 8, 2006 both beginning at 9:30 a.m.

Dated this 16th day of March, 2006.



HENRY EDWARD AUTREY
UNITED STATES DISTRICT JUDGE